

## Message Text

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PAGE 01 STATE 073236

44

ORIGIN SEC-03

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R 190102 Z APR 73

FM SECSTATE WASHDC

TO AMEMBASSY LUXEMBOURG

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E. O. 11652: N/ A

TAGS: ELIN, LU

SUBJECT: IOS ET AL

REF: LUXEMBOURG 294

1. SEC IN RECEIPT OF A TELEX OF A SETTLEMENT AGREED TO IN THE LAWSUIT IN NASSAU ( THE QTE BAHAMAS SETTLEMENT UNQTE) BETWEEN BAHAMAS COMMONWEALTH BANK ( BCB), THE IOS DOLLAR FUNDS, THEIR MANAGEMENT COMPANIES, AND OVERSEAS DEVELOPMENT BANK ( LUXEMBOURG) ( ODB LUX), AND A SECOND PROPOSED SETTLEMENT AGREEMENT BETWEEN THE LUXEMBOURG BANKING COMMISSION, ODB LUX, AND COMPANIE LUXEMBOURGIOUSE DE BANQUE S. A. ( CLB) ( THE QTE LUXEMBOURG SETTLEMENT UNQTE). SEC BELIEVES THAT THE BAHAMAS SETTLEMENT DOES NOT PROTECT ADEQUATELY IOS DOLLAR FUND SHAREHOLDERS AS IT PERMITS WRONGDOERS TO RETURN ONLY PART OF MISAPPROPRIATED FUNDS WITH NO REAL SECURITY FOR THE UNPAID BALANCE OF 19 MILLION DOLLARS TO BE RETURNED BY SUCH WRONGDOERS OVER 3 3/4 YEARS. THE BAHAMAS SETTLEMENT

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PAGE 02 STATE 073236

APPEARS COLLUSIVE AND AN ATTEMPT TO EVADE COURT ACTION ELSEWHERE. SETTLEMENT APPEARS TO BAIL OUT BCB TEMPORARILY AS BCB APPEARS TO BE INSOLVENT NOW AND PERMITS RESPONSIBLE INDIVIDUALS TO ESCAPE RESPONSIBILITY. ON APRIL 17, 1973, IN NEW YORK CITY LAWSUIT, JUDGE APPOINTED A TEMPORARY RECEIVER TO TAKE POSSESSION OF SECURITIES OF INTERNATIONAL BANCORP ( IBL) AND VALUE CAPITAL LTD ( VCL) TRANSFERRED BY DEFENDANT INTERNATIONAL CONTROLS CORP, ( ICC) TO GLOBAL FINANCIAL LTD ( GFL) AND GLOBAL HOLDINGS LTD ( GHL) IN JUNE 1972. BCB ISSUB-SIDIARY OF IBL.

2. EMBASSY REQUESTED TRANSMIT FOLLOWING TO HIGHEST APPROPRIATE LEVEL IN LUXEMBOURG:

3. WE BELIEVE LUXEMBOURG BANKING COMMISSIONER SHOULD NOT AGREE TO PROPOSED LUXEMBOURG SETTLEMENT WHICH INCORPORATES BAHAMAS SETTLEMENT. SEC AND THE QUEBEC SECURITIES COMMISSION ARE PARTICULARLY DISTURBED AS WE HAD BEEN ADVISED THAT NO SETTLEMENT WOULD BE NEGOTIATED BY LUXEMBOURG UNLESS WE AND CANADIAN AUTHORITIES HAD BEEN CONSULTED AND AGREED WITH SETTLEMENT. EMBASSY SHOULD NOTE THAT MILTON MEISSNER, PRESIDENT OF IOS DOLLAR FUNDS, DISCHARGED THE ATTORNEYS WHO WERE REPRESENTING THE FUNDS ON APRIL 12, 1973.

4. ANOTHER INEQUITABLE PART OF SETTLEMENT IS THAT IT PROVIDES FOR FUND SHAREHOLDERS TO PAY MANAGEMENT FEES TO BCB FOR ALL THE MONEY DEPOSITED IN BCB WHICH HAS BEEN MISAPPROPRIATED, 19 MILLION DOLLARS OF WHICH CANNOT BE RETURNED. THIS COULD AMOUNT TO OVER 450,000 THOUSAND DOLLARS.

5. SEC IS WILLING TO WORK WITH LUXEMBOURG AND CANADIAN AUTHORITIES ON A JUST AND APPROPRIATE RESOLUTION WITH A VIEW TO PROTECTING THE FUND SHAREHOLDERS ON EQUITABLE TERMS. WE BELIEVE THAT IF ALL GOVERNMENTS WITH INTEREST IN THE MATTER JOIN TOGETHER IN A COMMON EFFORT, WE WILL BE ABLE TO OBTAIN AN EQUITABLE DISPOSITION FOR THE FUND SHAREHOLDERS.

6. SETTLEMENT PERMITS WRONGDOERS TO KEEP 19 MILLION LIMITED OFFICIAL USE

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PAGE 03 STATE 073236

DOLLARS AND BUY TIME TO TAKE OTHER STEPS TO AVOID ITS

PAYMENT. SETTLEMENT IS FURTHER CONTRARY TO DISCUSSION REGARDING SETTLEMENT AND LETTER OF MARCH 29, 1973 FROM SEC TO BANKING COMMISSIONER OF LUXEMBOURG.

7. SETTLEMENT IS FURTHER DEFECTIVE IN THAT:

A. IT PROVIDES FOR PAYMENT OF MANAGEMENT FEES TO IOS MANAGEMENT COMPANIES FOR MANAGING MISAPPROPRIATED MONEY.

B. THERE IS NO ADEQUATE SECURITY FOR THE PAYMENT OF THE 19 MILLION DOLLARS UNRETURNED MONIES. ALL ASSETS OF BCB AND/ OR IBL SHOULD BE TURNED OVER TO AN APPROPRIATE TRUSTEE.

C. IT PROVIDES FOR NO ACCOUNTING FOR MISSING MONIES.

D. IT IGNORES MONEY FROZEN BY U. S. AND CANADIAN AUTHORITIES. SEC HAS BEEN ASSURED BY THE ONTARIO AND QUEBEC SECURITIES COMMISSIONS THAT THEY WILL LOOK TO THE SEC FOR GUIDANCE BEFORE PERMITTING THE RELEASE OF ANY MONIES UNDER THEIR JURISDICTION. THE ONLY MONEY AVAILABLE FOR PAYMENT ARE THOSE UNDER NASSAU COURTS CONTROL, WHICH APPEAR MINIMAL.

E. IT PROVIDES FOR NO SPECIAL COUNSEL RESPONSIBLE FOR INVESTIGATION INTO AFFAIRS OF FUNDS AND MANAGEMENT COMPANIES.

F. IT PERMITS THE IOS MANAGEMENT COMPANIES TO APPOINT AND CHANGE THE AGENT TO HOLD THE MONIES TO BE RETURNED.

G. IT PERMITS THE CONTROL OF THE FUND MONIES TO RETURN TO THE ALLEGED WRONGDOERS AFTER A PERIOD OF TIME.

8. SEC CLEARLY UNDERSTOOD THAT SEC AND CANADIANS WERE TO BE CONSULTED DURING NEGOTIATION STAGE AND THIS WAS NOT DONE.

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PAGE 04 STATE 073236

9. IN ORDER TO CONSULT, SEC WILL BE ABLE TO SEND REPRESENTATIVES TO LUXEMBOURG ON MAY 1, 1973.

10. SEC REQUESTS NO ACTION BY LUXEMBOURG BANKING COMMISSIONER BEFORE SUCH CONSULTATION. ROGERS

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